IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7790 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VADODARA CITY DISTRICT SAMASTH MALI SAMAJ PANCH

Versus

STATE OF GUJARAT

Appearance:

M/S THAKKAR ASSOC. for Petitioners

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 12/07/2000

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioners have prayed for a writ, order or direction to restrain the respondent authorities from making any arrest against the members of the Mali Community on the ground of sacrificing goats and other animals within the residential premises of the petitioner members and also to restrain the respondent authorities from interfering with sacrificing of goats and other

animals by the petitioners in the interest of justice and equity. The petition is filed by Vadodara City District Samasth Mali Samaj Panch and its office bearers (hereinafter referred as the petitioner-community).

2. The documents at Annexure "A" colly. are criminal complaints filed against some members of the petitioner community alleging that the concerned accused persons were going to sacrifice goats in contravention of the provisions of the Prevention of Cruelty to Animals Act, 1960 and also in contravention of the provisions of the Gujarat Animals & Birds Sacrifices Act, 1972. Those criminal complaints are still pending. It is further stated in the petition, inter alia, as under:-

> "The members of Mali community are engaged in different kinds of business and locations (sic vocations). However, all the members of the Mali Community perform pooja in common manner. It is submitted that the pooja also includes sacrifice of goats on various occasions such as at the time of offering prayer for improving business, aspiring for child, aspiring to win a legal case, aspiring to acquire a residential house or an office etc."

It is further contended that when the members of the petitioner community sacrifice goats and other animals, there is no violation of any of the provisions of the aforesaid Acts and, therefore, the Court should issue a writ as prayed for.

4. The criminal cases in question are still pending. It is always open to the accused to avail of the legal defences in those proceedings. However, while exercising its extraordinary, prerogative and discretionary jurisdiction under Article 226 of the Constitution, this Court would not lend its assistance to the petitioner Association when its members, citizens of India, want to perform certain acts which are obviously in violation of the provisions of Article 51A of the Constitution. The said Article reads as under:-

> "51A. Fundamental duties - It shall be the duty of every citizen of India - .. ..
>
> (h) to develop the scientific temper, humanism and the spirit of inquiry and reform."

What the petitioners have prayed for and

canvassed in this petition runs counter to the aforesaid constitutional provisions. The Court would, therefore, not exercise its discretionary jurisdiction under Article 226 of the Constitution to grant the petitioner reliefs prayed for.

The petition is, therefore, summarily dismissed.

July 12, 2000 (M.S. Shah, J.)
sundar/-